

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SCHOOL FOR LANGUAGE AND COMMUNICATION
DEVELOPMENT, ELLEN MORRIS TIEGERMAN,
MARIE MCCARTHY, parent of a disabled
student A.M., DEPINA MELKI, parent of
a disabled student S.M., MARY MCLAUGHLIN
parent of a disabled student E.M.,

MARSHA KENDALL, parent of a disabled
student E.K.,

ORDER ADOPTING
REPORT & RECOMMENDATION
02-CV-0269 (JS)(JO)

Plaintiffs,

- against -

NEW YORK STATE DEPARTMENT OF EDUCATION,
RICHARD P. MILLS, individually and as
New York State Commissioner of
Education, LAWRENCE GLOECKLER,
individually and as Deputy Commissioner
for Vocational and Educational
Services for Individuals with
Disabilities, REBECCA CORT,
individually and as Statewide
Coordinator, Office of Special Education
Quality Assurance, STEVEN BERMAN,
individually and in his official capacity
as Regional Supervisor of the New York
State Education Department, and VESID,
Special Education Quality Assurance,

Defendants.

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APPEARANCES:

For Plaintiff:

James M. Wicks, Esq.
Jonathan Mark Kashimer, Esq.
Farrell Fritz, P.C.
1320 Reckson Plaza
Uniondale, NY 11556-1320

For Defendant:

Susan M. Connolly, Esq.
N.Y.S. Office of the Attorney General
300 Motor Parkway, Suite 205
Hauppauge, NY 11788

SEYBERT, District Judge:

On January 15, 2002, Plaintiffs commenced this case. After eight years, with the aid of Magistrate Judge James Orenstein, the parties have reached a settlement.

On April 7, 2010, Judge Orenstein issued a Report and Recommendation ("R&R"), recommending that this Court approve the parties' proposed settlement. The R&R also stated "Any objections to this Report and Recommendation must be filed with the Clerk no later than April 26, 2010. Failure to file objections within this period designating the particular issues to be reviewed waives the right to appeal the district court's order." (R&R 7.) Thereafter, on April 26, 2010, Defendants filed objections to the R&R, stating that it contained language outside the terms of the settlement agreement; to the extent that the R&R adopted the terms of the settlement agreement, however, the parties did not object. Finally, later that same day, Judge Orenstein issued a Supplemental Report and Recommendation ("Supplemental R&R"), striking any language contained in the original R&R that was outside the scope of the settlement agreement between the parties.

"When evaluating the report and recommendation of a magistrate judge, the district court may adopt those portions of the report to which no objections have been made and which are not facially erroneous." Walker v. Vaughan, 216 F. Supp. 2d 290, 291

(S.D.N.Y. 2002) (citation omitted). However, if a party serves and files specific, written objections to a magistrate's report and recommendation within the prescribed time period, the district "court may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C); see also FED. R. CIV. P. 72(b). When a party raises an objection to a magistrate judge's report, "the court is required to conduct a de novo review of the contested sections." See Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991). However, "[w]hen a party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error." Barratt, 2002 U.S. Dist. LEXIS 3453, at *2 (citations omitted).

Upon careful review and consideration, the Court ADOPTS the R&R, as amended by the Supplemental R&R, in its entirety. The Clerk of the Court is directed to mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: April 28, 2010
Central Islip, New York